

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 351
Committee Substitute Favorable 3/30/21
Committee Substitute #2 Favorable 3/31/21
Fourth Edition Engrossed 4/1/21

Short Title: Clifford's Law.

(Public)

Sponsors:

Referred to:

March 23, 2021

1 A BILL TO BE ENTITLED
2 AN ACT DIRECTING THE SECRETARY OF THE DEPARTMENT OF HEALTH AND
3 HUMAN SERVICES TO ESTABLISH VISITATION PROTOCOLS FOR NURSING
4 HOMES, COMBINATION HOMES, HOSPICE CARE FACILITIES, AND ADULT CARE
5 HOMES, INCLUDING FAMILY CARE HOMES, DURING DECLARED DISASTERS
6 AND EMERGENCIES AND REQUIRING THESE FACILITIES TO ADHERE TO THE
7 ESTABLISHED VISITATION PROTOCOLS DURING DECLARED DISASTERS AND
8 EMERGENCIES WHEN NORMAL VISITATION POLICIES ARE SUSPENDED OR
9 CURTAILED.

10 Whereas, Clifford Jernigan is a 63-year old male with the mentality of a 3-year old
11 who has been confined to a long-term care facility for the past 53 years; and

12 Whereas, his mother visited him every week for 13 years until her death; and

13 Whereas, his sister, Mary Jernigan, has visited him each week for 40 years; and

14 Whereas, he has had only one outside visitor, his sister, over the last year during which
15 time he has lost over 25 pounds; and

16 Whereas, a staff member at the facility told his sister that he seemed to be mourning
17 himself to death; and

18 Whereas, he is only one of many thousands of residents in nursing homes,
19 combination homes, and hospice facilities who have gravely suffered because of restricted
20 visitation during the COVID-19 pandemic; and

21 Whereas, the General Assembly finds it is in the best interest of the State and that it
22 is both critical and essential for the well-being of these residents to have a minimal number and
23 frequency of visitors; Now, therefore,

24 The General Assembly of North Carolina enacts:

25 **SECTION 1.** This act shall be known and may be cited as "Clifford's Law."

26 **SECTION 2.(a)** Part 1 of Article 6 of Chapter 131E of the General Statutes is
27 amended by adding two new sections to read:

28 **"§ 131E-112.5. Secretary to establish visitation protocols during declared disasters and**
29 **emergencies.**

30 (a) As used in this section, G.S. 131E-112.6, and G.S. 131E-207.5, the following terms
31 have the following meanings:

32 (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).

33 (2) Emergency. – As defined in G.S. 166A-19.3(6).



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- (3) Facility. – A nursing home or combination home licensed under this Part, or a hospice care facility licensed under Article 10 of this Chapter.
- (4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of nursing homes, combination homes, and hospice care facilities, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:

- (1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor, or if the preapproved visitor is unavailable, the preapproved alternate visitor, shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.
- (2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.
- (3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy.

"§ 131E-112.6. Patient visitation rights for nursing home residents and combination home residents during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) a nursing home or combination home licensed under this Part suspends or restricts the normal visitation policy for any reason."

SECTION 2.(b) By March 15, 2022, the Secretary of the Department of Health and Human Services shall implement the visitation protocols described in G.S. 131E-112.5, as enacted by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary shall submit a report summarizing the visitation protocols to the Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 3. Article 10 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-207.5. Patient visitation rights for residents of hospice care facilities during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131E-112.5 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) a hospice care facility licensed under this Part suspends or restricts the normal visitation policy for any reason."

SECTION 4.(a) Article 1 of Chapter 131D of the General Statutes is amended by adding two new sections to read:

"§ 131D-7.1. Secretary to establish visitation protocols during declared disasters and emergencies.

(a) As used in this section and in G.S. 131D-7.2, the following terms have the following meanings:

- (1) Disaster declaration. – As defined in G.S. 166A-19.3(3).
- (2) Emergency. – As defined in G.S. 166A-19.3(6).

(3) Facility. – An adult care home, including a family care home, licensed under this Article.

(4) Normal visitation policy. – The visitation policy that was in effect at a facility on January 1, 2020.

(b) The Secretary shall, in consultation with licensed operators of adult care homes, including family care homes, and any other stakeholders the Secretary deems relevant, establish visitation protocols for residents of these facilities that will become effective during a disaster declaration or emergency that results in the suspension or curtailment of a facility's normal visitation policy for any reason. The visitation protocols shall provide for at least the following:

(1) Each resident shall have the right to designate one preapproved visitor and one preapproved alternate visitor. The preapproved visitor or, if the preapproved visitor is unavailable, the preapproved alternate visitor shall be allowed to visit the resident at least twice per month during any period of time during which the facility's normal visitation policy is suspended or curtailed for any reason during the declared disaster or emergency.

(2) Prior to admission, each facility shall explain and provide to each resident written notification of the visitation protocols established by the Secretary under this section.

(3) Visitation under these protocols shall be subject to Centers for Medicare and Medicaid Services directives and to the guidelines, conditions, and limitations established by the facility as part of its normal visitation policy.

"§ 131D-7.2. Resident visitation rights for adult care homes, including family care homes, during a disaster declaration or emergency.

Notwithstanding any provision of this Part, Chapter 166A of the General Statutes, or any other provision of law to the contrary, the visitation protocols established by the Secretary under G.S. 131D-7.1 shall be in effect during any period of time when (i) there is a declared disaster or emergency and (ii) an adult care home, including a family care home, licensed under this Article suspends or restricts the normal visitation policy for any reason."

SECTION 4.(b) By March 15, 2022, the Secretary of the Department of Health and Human Services shall implement the visitation protocols described in G.S. 131D-7.1, as enacted by this act. At least 30 days prior to implementation of these visitation protocols, the Secretary shall submit a report summarizing the visitation protocols to the chairs of the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 5. Sections 2(b) and 4(b) of this act are effective when this act becomes law. The remainder of this act becomes effective April 1, 2022.